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Supreme Court of the United States

OCTOBER TERM, 1946

No. 561 16

PRIEBE & SONS, INC.,
Petitioner,

vs.

THE UNITED STATES

ON PETITION FOR WRIT OF CERTIORARI TO THE COURT OF CLAIMS.

REPLY BRIEF FOR PETITIONER

SAMUEL WILLISTON,
Counsel for Petitioner.

J. ARTHUR MILLER,
ALLEN H. GARDNER,
Of Counsel.

Supreme Court of the United States

OCTOBER TERM, 1946

No. 861

PRIEBE & SONS, INC.,
Petitioner,

vs.

THE UNITED STATES

ON PETITION FOR WRIT OF CERTIORARI TO THE COURT OF CLAIMS

REPLY BRIEF FOR PETITIONER

The Government in a brief which almost entirely misconceives the issue presents one point which would be pertinent if sound. The Government states, or at least implies, that the rule to be applied in distinguishing between liquidated damages and a penalty in the case of a Government contract for war supplies should be different from the rule applied in a contract between private persons (Br.

10). This is an important question because of the large number of such contracts. The adoption of such a distinction would seem to be contrary, however, to the decision of this Court in *United States v. Standard Rice Company, Inc.*, 323 U. S. 106.

Respectfully submitted,

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March, 1947.